

AMENDED IN ASSEMBLY JULY 13, 2005

AMENDED IN SENATE APRIL 12, 2005

AMENDED IN SENATE MARCH 29, 2005

## SENATE BILL

**No. 186**

**Introduced by Senator Battin**

February 10, 2005

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An act to add ~~Section 1363.01~~ *Sections 1363.01 and 1363.09* to the Civil Code, relating to common interest developments.

### LEGISLATIVE COUNSEL'S DIGEST

SB 186, as amended, Battin. Common interest developments.

Existing law defines and regulates common interest developments and authorizes the association that manages the development to levy assessments to fulfill its obligations. *Existing law, the Common Interest Development Open Meeting Act, also requires that, among other things, members of the association be permitted to attend association board meetings, that matters discussed in executive session be noted in the minutes of the next meeting that is open to the entire membership, and that members be provided with specified notice regarding, and the minutes of, meetings.*

This bill would prohibit the use of any funds of the association for campaign purposes, as specified, in connection with any association board election. *The bill would also authorize a member of an association to bring a civil action, as specified, for a violation by the association of the association's operating rules or the open meeting act and would provide for a civil penalty of up to \$1,000, as specified.*

*The bill would become operative contingent on the enactment of AB 1098.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1363.01 is added to the Civil Code, to  
2 read:  
3 1363.01. (a) No funds of the association may be used for  
4 campaign purposes in connection with any association *board*  
5 election.  
6 (b) For purposes of this section, “campaign purposes” include,  
7 but are not limited to, the following:  
8 ~~(1) Supporting or opposing any candidate or issue that is on~~  
9 ~~the ballot.~~  
10 *(1) Expressly advocating the election or defeat of any*  
11 *candidate that is on the association election ballot.*  
12 ~~(2) Including the name or photograph or prominently featuring~~  
13 ~~the name of any candidate on a communication from the~~  
14 ~~association or its board, except for the ballot and ballot materials,~~  
15 ~~within 60 30 days of an election.~~  
16 ~~(3) Disseminating information, except for the ballot materials,~~  
17 ~~clearly designed to affect the outcome of the election.~~  
18 SEC. 2. Section 1363.09 is added to the Civil Code, to read:  
19 1363.09. (a) *A member of an association may bring a civil*  
20 *action for declaratory or equitable relief for a violation of this*  
21 *article by an association of which he or she is a member,*  
22 *including, but not limited to, injunctive relief, restitution, or a*  
23 *combination thereof, within one year of the date the cause of*  
24 *action accrues. Upon a finding that the election procedures of*  
25 *this article, or the adoption of and adherence to rules provided*  
26 *by Article 4 (commencing with Section 1357.100) of Chapter 2,*  
27 *were not followed, a court may void any results of the election.*  
28 (b) *A member who prevails in a civil action to enforce his or*  
29 *her rights pursuant to this article shall be entitled to reasonable*  
30 *attorney’s fees and court costs, and the court may impose a civil*  
31 *penalty of up to one thousand dollars (\$1,000) for each violation,*  
32 *except that each identical violation shall be subject to only one*  
33 *penalty if the violation affects each member of the association*  
34 *equally. A prevailing association shall not recover any costs,*

1 *unless the court finds the action to be frivolous, unreasonable, or*  
2 *without foundation.*

3 *(c) A cause of action under Section 1363.03 with respect to*  
4 *access to association resources by candidates and advocates, the*  
5 *receipt of a ballot by a member, or the counting, tabulation, or*  
6 *reporting of, or access to, ballots for inspection and review after*  
7 *tabulation may be brought in small claims court if the amount of*  
8 *the demand does not exceed the jurisdiction of that court.*

9 *SEC. 3. This act shall become operative only if Assembly Bill*  
10 *1098 of the 2005-06 Regular Session is enacted and becomes*  
11 *effective on or before January 1, 2006.*